

1
2
3
4
5
6
7
8
9
10
11

RESOLUTION 2012-06

12
13
14
15
16
17
18
19

**RESOLUTION OF THE VILLAGE COMMISSION OF
THE VILLAGE OF BISCAYNE PARK SUPPORTING
POLICE OFFICER AND FIREFIGHTER DISABILITY
PRESUMPTION REFORMS TO MAKE PENSION
PLAN AND WORKERS' COMPENSATION BENEFITS
SUSTAINABLE FOR CURRENT AND FUTURE
POLICE OFFICERS AND FIREFIGHTERS;
PROVIDING FOR AN EFFECTIVE DATE**

20
21
22
23
24
25
26
27

WHEREAS, the Village of Biscayne Park deeply honors and respects the services provided and sacrifices made by police officers and firefighters, and desires to provide current and future police officers and firefighters with a pension and workers' compensation system that is sustainable. The Village of Biscayne Park also desires to protect local taxpayers from unsustainable and unsound pension and workers' compensation expenses. The Village of Biscayne Park supports responsible reforms that protect pensions and workers' compensation benefits so they will be there for future generations of police officers and firefighters and safeguard taxpayer dollars; and

28
29
30
31
32
33
34

WHEREAS, the Florida Legislature has provided that health conditions relating to heart disease, hypertension or tuberculosis suffered by a firefighter, law enforcement officer or correctional officer are presumed to be job related. These "disability presumptions" are applicable to both workers' compensation and disability pension claims and have introduced significant opportunities for abuse in the workers' compensation and police and firefighter pension systems. Courts have interpreted the presumption laws so favorably toward these employees that cities and other government employers basically cannot overcome the presumption and show the health condition was not work related; and

35
36
37
38
39

WHEREAS, a Task Force on Public Employee Disability Presumptions is currently meeting to make findings and recommendations to the Legislature. Changes to disability presumption laws being considered by the Task Force include requiring an employee to meet age and employment requirements, allowing a presumption to be overcome by a preponderance of evidence, and allowing certain individual risk factors to be considered when applying the presumption, such as tobacco use, weight/diet, genetics and lifestyle choices. All of these proposals are designed to bring a fairer balance to the application of presumption laws; and

40
41
42

WHEREAS, it is important to remember that just because an individual does not have a disability presumption does NOT mean they cannot make a workers' compensation or disability pension claim. Rather, it just means that the individual must show the health condition is work related, just like every other employee who makes a workers' compensation or pension claim; and

43
44
45

WHEREAS, HB 365 by Representative Fred Costello and SB 910 by Senator Alan Hays have been filed for consideration during the 2012 legislative session. HB 365 and SB 910 would responsibly promote increased police and firefighter pension and workers'

1 compensation stability, security and sustainability by making the following changes to current
2 state law:

- 3
4 **1. Collective Bargaining Over Retirement Benefits and Revenues:** Allow cities
5 and police and firefighter unions to collectively bargain the retirement benefits
6 provided pursuant to, and the use of insurance premium tax revenues provided
7 under, Chapters 175 or 185, Florida Statutes.
- 8 **2. Alternative Retirement Plans:** Allow cities to unilaterally transition to a defined
9 contribution plan, the Florida Retirement System, or another retirement program
10 for police and firefighters and continue to receive insurance premium tax
11 revenues to pay for the retirement expenses.
- 12 **3. Boards of Trustees Fiscal Transparency and Accountability:** Require
13 statutorily created police and firefighter pension boards of trustees to adopt and
14 operate under an administrative expense budget, and require a detailed accounting
15 of pension boards of trustees' expenses.
- 16 **4. Fiscally Responsible Retirement Plan Termination:** Require police and
17 firefighter pension boards of trustees and cities to work together for a fiscally
18 responsible distribution of plan assets if a city must terminate its police or
19 firefighter retirement plan.
- 20 **5. Clarify Police Overtime Used for Retirement Purposes:** Clarify (due to an
21 incorrect interpretation by the Division of Retirement of a law passed in 2011)
22 that police officers may use up to 300 hours per year in overtime compensation
23 when calculating retirement benefits as provided in the plan or collective
24 bargaining agreement, and that police officers are not entitled to the use of a
25 minimum of 300 hours per year in overtime compensation for retirement
26 purposes.
- 27 **6. Disability Presumptions:** Reform current statutory disability presumptions for
28 firefighters, law enforcement officers and correctional officers relating to health
29 conditions caused by tuberculosis, heart disease or hypertension to require the
30 employee to meet age and employment requirements, allow the presumption to be
31 overcome by a preponderance of evidence, and allow certain individual risk
32 factors to be considered when applying the presumption.
- 33

34 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE**
35 **VILLAGE OF BISCAYNE PARK, FLORIDA:**

36 Section 1: That the Village hereby supports police and firefighter pension and
37 disability presumption reforms in general, and as more specifically provided in HB 365 and SB
38 910 for the 2012 Florida legislative session.

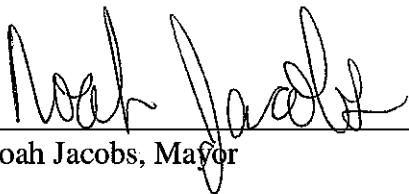
39 Section 2: That the Village hereby requests the Florida Legislature to amend current
40 statutory disability presumptions for firefighters, law enforcement officers and correctional
41 officers relating to health conditions caused by tuberculosis, heart disease or hypertension to
42 require the employee to meet age and employment requirements, allow the presumption to be
43 overcome by a preponderance of evidence, and allow certain individual risk factors to be
44 considered when applying the presumption.

1 Section 3: That the Village urges the Florida Legislature to pass and the Governor to
2 approve the above responsible reform recommendations relating to police and firefighter
3 pension plans and disability presumptions in the 2012 legislative session.

4 Section 4: That the Village Clerk is directed to transmit a copy of this resolution to
5 Governor Rick Scott, the Florida Legislature, and the Florida League of Cities, Inc.

6 Section 5: That this resolution shall be effective immediately upon adoption by
7 majority vote of the Commission of the Village of Biscayne Park, Florida.


8 PASSED AND ADOPTED this 12th day of January, 2012.

10
11
12
13
14 
15 Noah Jacobs, Mayor

16 Attest:

17
18
19
20 
21 Maria C. Camara, Village Clerk

22
23 Approved as to form:

24
25
26
27 
28 Village Attorney

**The foregoing resolution upon being
put to a vote, the vote was as follows:**

Mayor Jacobs: No
Vice Mayor Watts: No
Commissioner Anderson: Yes
Commission Cooper: Yes
Commissioner Ross: Yes